BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Grover C. & Paulette P. Arp Dist. 15, Map 95LB, Group C, Control Map 95LB, Parcel 29.00, S.I. 000 Residential Property Tax Year 2006	)) Blount County)))

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$27,000	$39,300	$66,300	$16,575

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 13, 2006 in Maryville, Tennessee. The taxpayers, Grover and Paulette Arp, represented themselves. The assessor of property, Mike Morton, represented himself and was assisted by Barry Mathis. The intervenor, Division of Property Assessments, was represented by staff attorney John Allen.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 35' x 70' lot improved with a dwelling located in the Big Valley Campground on Old Tuckaleechee Road in Townsend, Tennessee. The dwelling consists of a 1989 model 12' x 34' recreational vehicle, a 9' x 27' concrete patio and a 12' x 20' aluminum patio cover.

The Big Valley Campground sits on a tourist route to the Smoky Mountains National Park. It has a paved privately maintained road as well as a private sewer system. Lot owners have access to cable television, electricity, water and telephone service. The campground receives police and fire protection typical for traditional neighborhoods in Townsend.

The taxpayers contended that subject property should be valued at $37,000 by reducing the appraisal of the improvements to $10,000. In support of this position, the taxpayers argued that for all practical purposes their dwelling consists of a seventeen (17) year old movable recreational vehicle in need of a new roof, carpet, air conditioner and furnace. The taxpayers asserted that the 2006 countywide reappraisal program caused the appraisal of subject property to increase excessively. The taxpayers introduced both the assessor's appraisals of other parcels in the development and comparable sales in support of their contention of value.

The assessor contended that subject property should be valued at $62,600. In support of this position, the testimony and written analysis of Mr. Mathis was offered into evidence. Mr. Mathis essentially analyzed four comparable sales and concluded they support a market value indication of $62,600. Mr. Mathis' written analysis included an adjustment grid showing the various adjustments made in arriving at his conclusion of value.

The Division of Property Assessments intervened in this matter because it believed the taxpayers were contending the structure was exempt from taxation. The administrative judge finds the taxpayers did not pursue such an argument at the hearing and did not contest that the improvements constitute an assessable "movable structure" pursuant to Tenn. Code Ann. § 67-5-802.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at $62,600 in accordance with Mr. Mathis' analysis.

Since the taxpayers are appealing from the determination of the Blount County Board of Equalization, the burden of proof is on the taxpayers. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2006 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

> The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .
>
> The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2.

The administrative judge finds that the comparable sales introduced by Mr. Mathis should receive greatest weight. The administrative judge finds that Mr. Mathis adjusted his sales in accordance with generally accepted appraisal practices. The administrative judge finds that the three highlighted sales included in the taxpayers' presentation were not adjusted or meaningfully analyzed. Moreover, the administrative judge finds that the sales all occurred after the relevant assessment date of January 1, 2006 and are technically irrelevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3.

The administrative judge recognizes that a "stand alone" recreational vehicle like the taxpayers would typically sell for significantly less than its current appraised value.[1] However, the administrative judge finds that the comparable sales introduced by the assessor of property established that although the recreational vehicle portion of the structures can be moved, the market does not value them as equivalent to "stand alone" recreational vehicles or mobile homes.

The administrative judge finds that the parties were in agreement on land values in subject development. Thus, improvement values constitute the only variable to be determined. The administrative judge finds Mr. Mathis' testimony indicated that similar structures incorporating newer model recreational vehicles are selling for significantly more than the five comparables used in his analysis.

The administrative judge finds that the taxpayer's equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy.[2] The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

> The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

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[1] The assessor has appraised the recreational vehicle itself at $32,946. The patio, porch and site improvements have been valued at $1,900, $1,938 and $2,500 respectively.

[2] See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

The administrative judge finds merely reciting factors that could cause a dimunition in value does not establish the current appraisal exceeds market value. The administrative judge finds the Assessment Appeals Commission has ruled on numerous occasions that one must *quantify* the loss in value one contends has not been adequately considered. See, e.g., *Fred & Ann Ruth Honeycutt* (Carter Co., Tax Year 1995) wherein the Assessment Appeals Commission ruled that the taxpayer introduced insufficient evidence to quantify the loss in value from the stigma associated with a gasoline spill. The Commission stated in pertinent part as follows:

> The assessor conceded that the gasoline spill affected the value of the property, but he asserted that his valuation already reflects a deduction of 15% for the effects of the spill. . . . The administrative judge rejected Mr. Honeycutt's claim for an additional reduction in the taxable value, noting that he had not produced evidence by which to quantify the effect of the "stigma." The Commission finds itself in the same position. . . . Conceding that the marketability of a property may be affected by contamination of a neighboring property, we must have proof that allows us to quantify the loss in value, such as sales of comparable properties. . . Absent this proof here we must accept as sufficient, the assessor's attempts to reflect environmental condition in the present value of the property.

Final Decision and Order at 1-2. Similarly, in *Kenneth R. and Rebecca L. Adams* (Shelby Co., Tax Year 1998) the Commission ruled in relevant part as follows:

> The taxpayer also claimed that the land value set by the assessing authorities. . .was too high. In support of that position, she claimed that. . .the use of surrounding property detracted from the value of their property. . . . As to the assertion the use of properties has a detrimental effect on the value of the subject property, that assertion, without some valid method of quantifying the same, is meaningless.

Final Decision and Order at 2.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$27,000	$35,600	$62,600	$15,650

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 29th day of November, 2006.

MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Grover C. & Paulette P. Arp
John C.E. Allen, Esq.
Mike Morton, Assessor of Property